

UNITED STATES BANKRUPTCY COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA  
DURHAM DIVISION

IN THE MATTER OF: ) Case No: B-1180440 C-13D  
**ALTHEA WARREN,** )  
 )  
Debtor(s) )  
\_\_\_\_\_  
 )

OBJECTION BY STANDING TRUSTEE TO CONFIRMATION OF PLAN

NOW COMES Richard M. Hutson, II, Standing Trustee (“Trustee”) and respectfully objects to confirmation of the Debtor’s plan pursuant to 11 U.S.C. §1325 and shows unto the Court the following:

1. The Debtor filed a petition under Title 11 of the United States Code, Chapter 13, on March 15, 2011, in the United States Bankruptcy Court for the Middle District of North Carolina.
2. On March 15, 2011, Richard M. Hutson, II, was appointed as Trustee.
3. This Court has proper and personal jurisdiction of the subject matter hereof and over the parties pursuant to 28 U.S.C. §§151, 157 and 1334, and the Standing Order entered by the United States District Court for the Middle District of North Carolina and this is a core proceeding within 28 U.S.C. §157(b).
4. The plan filed by the Debtor proposes a monthly payment of \$770.00 for a period of 60 months. There is no proposed return to general unsecured creditors. The Debtor lists unsecured debt in Schedule F of approximately \$23,246.91.
5. The Debtor has filed with the petition a Statement of Current Monthly Income and Calculation of Commitment Period and Disposable Income, known as Official Form B22C (“Form B22C”). The Debtor lists current monthly income (“CMI”) in Form B22C of approximately \$6,289.20.
6. The Trustee objects to confirmation of the Debtor’s plan in that the Debtor may not be devoting all of her projected disposable income to fund the plan pursuant to 11 U.S.C. §1325(b). The Debtor works at the VA Hospital in Durham, NC. There is an enormous discrepancy between the gross income listed in Schedule I and the CMI listed in Form B22C. No explanation has been provided for this discrepancy. Additionally, the Debtor has failed to list her non-filing spouse’s gross monthly income in either Schedule I or Form B22C as required.

7. The Trustee objects to confirmation of the Debtor's plan in that the Debtor is not permitted to take as a deduction on line 47 of Form B22C the mortgage payments with GMAC on the real property at 5808 Thistlerock Lane, Durham, NC ("the real property") as the Debtor is releasing the real property to GMAC. The deductions for GMAC on lines 47 and 48 must be removed.
8. The Trustee requests a hearing to determine the correct amount of monthly disposable income available to unsecured creditors pursuant to 11 U.S.C. §1325(b).

WHEREFORE, the Trustee prays the Court for an Order as follows:

1. That the Debtor's plan not be confirmed in that the plan does not comply with the provisions of the Bankruptcy Code, specifically 11 U.S.C. §1325(b) and the case be dismissed for cause pursuant to 11 U.S.C. §1307; or
2. For such other and further relief as the Court may deem just or proper.

This the 4<sup>th</sup> day of May, 2011.

s/Benjamin E. Lovell

Benjamin E. Lovell  
Attorney for the Trustee  
State Bar No: 23266  
P.O. Box 3613  
Durham, N.C. 27702  
Telephone: (919) 688-8065

CERTIFICATE OF SERVICE

This is to certify that I have this day served a copy of the foregoing document upon Neil O'Toole, Esq., PO Box 1109, Durham, NC 27701, Althea Warren, 509 Culpepper Ln., Raleigh, NC 27610, and Michael D. West, Esq., U.S. Bankruptcy Administrator, PO Box 1828, Greensboro, NC 27402 by depositing a copy of same in the United States Mail, postage prepaid, and in the manner prescribed by Rule 5 of the Federal Rules of Civil Procedure.

This 4<sup>th</sup> day of May, 2011.

s/Benjamin E. Lovell

Benjamin E. Lovell, Esq.

Attorney for the Standing Trustee